

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into Operations and Practices of Pacific Gas & Electric Company regarding Anti-Smart Meter Consumer Groups.

Investigation 12-04-010
(Filed April 19, 2012)

**DECISION AWARDING COMPENSATION TO THE UTILITY REFORM
NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-04-012**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 13-04-012
Claimed (\$): 26,817.01	Awarded (\$): 26,817.01
Assigned Commissioner: Michel Peter Florio	Assigned Administrative Law Judge (ALJ): Jean Vieth

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: D.13-04-012 approves a three-party settlement of this investigation into the activities of a Pacific Gas and Electric Company (PG&E) employee William Devereaux to infiltrate, by using a false name, online discussion groups hosted by several anti-smart meter activist organizations.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	May 25, 2012	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	July 25, 2012	Yes
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		

PROPOSED DECISION

5. Based on ALJ ruling issued in proceeding number:	Application (A.) .09-09-013 (verified in D.10-05-012)	Yes
6. Date of ALJ ruling:	Jan. 7, 2010 (verified in D.10-05-012)	Yes
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.)11-11-008	Yes
10. Date of ALJ ruling:	April 19, 2012	Yes
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-04-012	Yes
14. Date of Issuance of Final Order or Decision:	April 5, 2013	Yes
15. File date of compensation request:	May 29, 2013	Yes
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant’s description of its contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).**

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. Whether The Commission Should Grant PG&E’s Motion For A Protective Order. Early in the proceeding, PG&E filed a motion for a protective order seeking to redact from the Consumer Protection and Safety Division’s (CPSD) Staff Report, among other things, the names and titles of certain PG&E employees and 3rd parties and a PG&E investigation report that was	TURN Response to Motion of PG&E for	

<p>2. Whether PG&E Management Was Aware Of Mr. Devereaux's Activities</p> <p>This was one of the major issues identified in the Order Instituting Investigation (OII). The determination of this issue was a critical element in TURN's assessment and whether TURN would participate in a settlement. After engaging in discovery with PG&E, reviewing the documents produced as a result of that discovery, and analyzing the CPSD report, TURN concluded that there was insufficient evidence to demonstrate that PG&E's management was aware of Mr. Devereaux's actions prior to those activities being reported in the press.</p> <p>However, TURN was concerned that PG&E has a culture that is hostile to views that disagree with PG&E. TURN was insistent in settlement discussions that this concern be addressed as part of the final settlement.</p>	<p>Approved Settlement Agreement, attachment A to D.13-04-012, paras. 1.12 and 1.16.</p>	<p>Yes</p>
<p>3. Whether Fines And/Or Remedial Actions Should Be Imposed On PG&E</p> <p>This was also an issue identified in the OII. Although there was insufficient evidence, in TURN's view, to find that PG&E management was aware of Mr. Devereaux's activities, TURN was concerned that PG&E do everything in its power to ensure that no similar actions take place in the future. Thus, TURN argued for a fine and certain remedial actions. These were reflected in the final settlement agreement.</p>	<p>Approved Settlement Agreement, attachment A to D.13-04-012, paras. 2.2 and 2.3 – <i>i.e.</i> PG&E to pay a fine of \$390,000; PG&E to sponsor three trainings on appropriate social media use and proper online protocols to industry groups; PG&E to continue to improve internal employee education efforts re proper use of social media; and PG&E would file a compliance report after completing the three external trainings.</p>	<p>Yes</p>

PROPOSED DECISION

<p>b. Reasonableness of Hours Claimed.</p> <p>Mr. Nusbaum was the lead attorney for this proceeding for TURN responsible for general management of TURN's efforts and lead negotiator for TURN in the settlement discussions. Mr. Long provided advice and guidance in his role as TURN's Legal Director. Mr. Long also focused on the Protective Order and related procedural issues when Mr. Nusbaum was unavailable in the early part of the case. Overall, the total hours included in this request represent slightly less than one and one-half weeks of attorney time. The Commission should find TURN's request for intervenor compensation reasonable.</p>	Yes
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated all of our attorney and advocate time by issue area or activity, as evident on our attached timesheets.</p> <p>The following codes relate to specific substantive issue and activity areas addressed by TURN:</p> <p>GP - General Preparation: time for activities necessary to participate in the Docket</p> <p>PO – Work related to the PG&E Protective Order</p> <p>Settlement – Activities associated with settlement</p> <p>COMP - Preparation of compensation request and TURN's notice of intent</p>	<p>Yes</p> <p>Yes</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
William Nusbaum	2012	33.75	\$445	D.13-03-024 (March 28, 2013)	15,018.75	33.75	\$445	15,018.75
William Nusbaum	2013	3.75	\$455	Resolution ALJ-287	1,706.25	3.75	\$455	1,706.25
Tom Long	2012	16.50	\$530	D.13-05-007	8,745.00	16.50	\$530	8,745.00
	Subtotal:				\$25,470.00	Subtotal:		\$25,470.00

PROPOSED DECISION

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
William Nusbaum	2012	1.5	\$222.50	Half approved hourly rate	333.75	1.5	\$222.50	\$333.75
William Nusbaum	2013	4	\$227.50	Half approved hourly rate	910.00	4	\$227.50	\$910.00
	Subtotal:				\$1,243.75	Subtotal:		\$1,243.75
COSTS								
#	Item	Detail			Amount	Amount		
	Photocopies				6.00			\$6.00
	Lexis				90.66			\$90.66
	Postage				6.60			\$6.60
Subtotal:					\$103.26	Subtotal:		\$103.26
TOTAL REQUEST :					\$26,817.01	TOTAL AWARD :		\$26,817.01
*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.								
**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate								
Attorney		Date Admitted to CA BAR ¹		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
William Nusbaum		June 7, 1983		108835		No; Please note that from January 1, 1997 until October 4, 2002 Mr. Nusbaum was an inactive member of the California Bar.		
Thomas Long		December 11, 1986		124776		No.		

¹ This information may be obtained at: <http://www.calbar.ca.gov/>.

PROPOSED DECISION**PART IV: OPPOSITIONS AND COMMENTS**

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. TURN has made a substantial contribution to D.13-04-012.
2. The requested hourly rates for TURN's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$26,817.01.

CONCLUSION OF LAW

1. The Claim satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$26,817.01.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Claimant the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 12, 2013, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision:	D1304012		
Proceeding:	I1204010		
Author:	ALJ Jean Vieth		
Payer:	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	5/19/13	\$26,817.01	\$26,817.01	No	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
William	Nusbaum	Attorney	TURN	\$445	2012	\$445
William	Nusbaum	Attorney	TURN	\$455	2013	\$455
Tom	Long	Attorney	TURN	\$530	2012	\$530

(END OF APPENDIX)